IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.11.2007

CORAM:

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN
AND
THE HONOURABLE MR.JUSTICE R.REGUPATHI

H.C.P.No.1119 of 2007

Senthilkumar @ Senthil .. Petitioner

Vs

1. The Commissioner of Police
   Coimbatore City, Coimbatore.

2. The Secretary to Government,
   Prohibition & Excise Dept.,
   Fort St. George, Chennai-9. .. Respondents

Petition filed under Article 226 of the Constitution of India for issue of Writ of Habeas Corpus calling for the records of the detention made in C.No.21/G/15/2007 dated 10.3.2007 passed by the Commissioner of Police, Coimbatore City, the 2nd Respondent herein and set aside the same and direct the Respondent to produce the detenu before this Hon'ble Court and set the detenu Thiru P.Senthilkumar @ Senthil at liberty.

For Petitioner : Mr.M.Dhamodharan

For Respondents: Mr.N.R.Elango
Additional Public Prosecutor

O R D E R

(Order of the Court was made by P.D.DINAKARAN,J.)

Petitioner challenges the order of detention dated 10.3.2007, passed against him by the first respondent in C.No.21/G/15/2007, branding him as 'Goonda' under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), seeking to quash the same and direct the respondents to produce him before this Court and set him at liberty.

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2. On the basis of the complaint lodged by one Ranganathan alleging that on 19.2.2007 at about 11.30 hours, when he was standing in front of a bakery shop, the detenu came and threatened him to part with the money he had and when he refused, the detenu took a knife and brandished against him and also threatened the public, who came on hearing the cry of the complainant, that he would kill anybody who comes nearer to him and also took bottles kept there and broke them on the road, which created panic in the area, the detenu, who was produced by the complainant himself, was arrested and a case in Crime No.155 of 2007 was registered against the detenu on the file of B-7 Ramanathapuram Police Station for the offence punishable under Section 397 I.P.C. The detenu, was later, produced before the Court for judicial custody.

3. Taking into consideration the above said ground case as well as four adverse cases registered for offences punishable under Section 379 and 75 IPC., three of which on the file of same police station in Crime Nos.73 of 2005, 1107 of 2005 and 1108 of 2005 and one on the file of B-3 Kattoor Police Station in Crime No.2335 of 2006, the first respondent, having satisfied that there is a compelling necessity to detain the detenu in order to prevent him from indulging in the activities which are prejudicial to the maintenance of public order, ordered his detention dubbing him as a 'Goonda'.

4. The main contention of the learned counsel for the petitioner is that the order of detention was passed by the first respondent mechanically, even before formulating the grounds of detention. To substantiate the same, the learned counsel pointed out that the order of detention is dated 10.3.2007, whereas the grounds of detention were formulated only on 13.3.2007.

5. We have perused the records produced before us. It is apparent on the face of the records that the grounds of detention were formulated only on 13.3.2007, whereas the order of detention was passed on 10.3.2007, which, in our considered opinion, is not possible. Therefore, even before the formulation of the grounds of detention, the detention order was passed, which vitiates the order of detention and hence, we are inclined to allow this petition.

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In the result, the order of detention is quashed and the Habeas Corpus Petition is allowed. The detenu is directed to be set at liberty forthwith unless his presence is required in connection with any other case.

Sra

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Commissioner of Police
   Greater Chennai, Egmore,
   Chennai 8.

2. The Secretary to Government,
   Prohibition & Excise Dept.,
   Fort St. George, Chennai-9.

3. The Superintendent,
   Central Prison, Coimbatore.

4. The Joint Secretary
   to the Government of Tamil Nadu,
Public (Law and Order) Department,
Fort St George, Chennai 9.

5. The Public Prosecutor
   High Court, Madras.

+ 1 cc to Mr. M. Dhamodharan, Advocate SR No. 67160

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SR/29.11.2007

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